



Missouri Department of Revenue

# Tax Bulletin

Volume 6, No. 1

Winter 1997



## *'Directly' Speaking . . .*

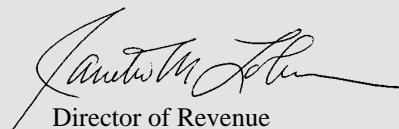
Greetings! I am happy to report that tax season is off to a great start at the Department of Revenue. I hope your busy season is also going well. We have launched programs for the electronic filing of withholding taxes, individual income taxes and—eventually—sales taxes. We are very encouraged by the response so far.

Since our new program for the telefiling of withholding taxes began last summer, more than 750 businesses have expressed an interest and requested more information about the system. Employers have the option of telefiling (using a tone-generating telephone) or using electronic data interchange (EDI). More than 150 businesses are prepared to begin using EDI to pay their withholding taxes, and at least one accounting firm has begun the process of shifting all of its payroll clients to the system.

Individual income tax telefiling of the Form MO-1040A has also gone well, with more than 15,000 filings as of early February. As with all sys-

tems, there is a learning curve for both the Department and the users of the system. All in all, however, we are incorporating improvements on a daily basis and in general, the new system is working well.

These new systems were designed to make filing easier, more accurate and more efficient for all taxpayers. The Department also benefits from the reduction in processing paper returns. We would like to know what you think about these programs. Your feedback and experiences with them in the real world give us the information we need to improve the system and make it work better for you. If you are using one of the new filing options, please let us know how it is working for you. If you would like more information about any of these programs, please call or write and we will be glad to send you a packet. Thank you for your continuing support.

  
Director of Revenue

## Telefile System is Waiting for Your Call

The Department's withholding tax telefile system is waiting for your telephone call. The system was ready for live transactions on July 31 and employers are beginning to find telefile is an easy and quick method for filing withholding tax returns. The telefile system is available 24 hours each day, seven days each week and the telephone call is to a toll-free number.

To telefile an employer must register with the Department by completing a simple, one-page Trading Partner Agreement. The Department will issue the employer a Personal Identification Number (PIN) that will serve as the employer's signature on the return filing. Then it's just a quick call to the toll free number to provide the return information via a touch tone telephone. The telefile system will provide a confirmation number for use by the employer when referencing the transaction with the Department. The employer must initiate an Automated Clearing House Credit (ACH) with its financial institution to make payment.

Telefile is especially easy for employers filing zero returns. The quick telephone call completes the filing and eliminates nonfiler notices that the Department will generate if no return is received.

Missouri employers looking for alternative filing methods may want to consider the Department's Electronic Data Interchange (EDI) programs. The Department offers two options for filing withholding tax returns electronically. With the first option, the employer provides return information to its financial institution who then converts the information into a specialized format that allows the bank to transfer the return information,

*see Telefile on page 2*

## In this issue

• Tax Reminders When Filing . . . . .	2
• Important Phone Numbers . . . . .	2
• State Holidays . . . . .	2
• Letter Rulings . . . . .	2
• Successful Prosecutions . . . . .	3
• Sales and Use Tax Audits . . . . .	3
• Court Cases . . . . .	4-6
• Tax Calendar . . . . .	8

## Telefile

from page 1

along with payment to the Department. With the second option, the employer transmits the return information through a value added network to the Department by using EDI translation software.

Either method is fast and easy and can be used to file a Form MO-941P, Employer's Quarter-Monthly Payment of Income Taxes Withheld; Form MO-941W, Employer's Monthly Report of Quarter-Monthly Payments; or a Form MO-941, Employer's Return of Income Taxes Withheld.

More than 100 employers are currently taking advantage of these convenient filing methods. To find out more about the withholding tax telefile system, please call Maria Micke, (573) 751-3930 or write to Tax Program Coordinator, P.O. Box 371, Jefferson City, MO 65105-0371.

### Important Phone Numbers

Form ordering (toll free) (800) 877-6881  
 Form order questions . . (573) 751-5337  
 Forms by Fax . . . . . (573) 751-4800  
 Department of Revenue Bulletin  
 Board System . . . . . (573) 751-7846  
 Electronic Filing  
 Information . . . . . (573) 751-3930  
 Individual Income/Property  
 Tax Credit Refund Inquiry  
 Line . . . . . (800) 411-8524  
 Internet/World Wide Web  
 . . . . . <http://www.state.mo.us/dor>

### State Holidays

*State offices will be closed in observance of the following holidays.*

<b>May</b>	<b>8</b>	Truman's Birthday
<b>May</b>	<b>26</b>	Memorial Day
<b>July</b>	<b>4</b>	Independence Day

## Tax Reminders When Filing

by Kathy Mantle, Central Processing Bureau, (573) 751-3930

When completing your 1996 Individual Income Tax return, here are a few reminders to ensure your return will be processed quickly and efficiently . . .

- **REMEMBER** — Use your label. This year the address labels on the income tax booklets and post cards no longer contain the taxpayer's social security number. In a conscientious effort to avoid printing social security numbers on the highly visible address labels, the Department has used a special Processing Identification Number (PIN). You should manually enter your social security number in the proper space on the income tax forms.
- **REMEMBER** — Sign your return. If a taxpayer is due a refund, an unsigned return or Form MO-8453 (if electronically filed) will slow down the processing and delay the issuance of the refund check.
- **REMEMBER** — Make sure your return has all the necessary documentation attached to it such as . . . W-2s; documentation for interest from exempt federal obligations; 1099 I ; 1099 R; Federal Schedule A and other states' returns.
- **REMEMBER** — If you owe, you can file now and pay later (no later than 4-15-97) by submitting your check or money order with the Form MO-1040V included in your booklet. Make sure the voucher is properly completed to guarantee proper credit.

## Letter Rulings

by General Counsel's Office, (573) 751-2633

The following is a list of the letter rulings issued during the period September through December 1996.

- |  |                                       |
|--|---------------------------------------|
| L9238 Branding Material                      | L9332 Home Improvement/Dual Operators |
| L9252 Calculation of Credits                 | L9360 School Meals                    |
| L9256 Pesticide Additives                    | L9361 Separately Stated Delivery Fees |
| L9265 Travelling Salesman                    | L9362 Replacement Parts               |
| L9293 Expanded Plant – Political Subdivision | L9389 Home Security Alarms            |
| L9301 Lease/Rental Terms and Maintenance     | L9405 Hunting on Private Property     |
| L9307 Logging Equipment                      | L9414 Refund of Grievance Payment     |
| L9324 Corporate Stock Mergers                | L9426 Residential Property            |
|  | L9433 Natural Gas Compression         |

Copies of the sanitized version of these letter rulings are available at a cost of \$1.10 plus sales tax of 6.225% each by writing to the Department of Revenue, General Counsel's Office, P.O. Box 475, Jefferson City, MO 65105-0475.



Missouri Department of Revenue

**Mel Carnahan**, Governor; **Janette M. Lohman**, Director of Revenue; **Robert G. Schemenauer**, Director Division of Taxation and Collection

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# Successful Prosecutions 1996 Tax Cases

## JANUARY

- Taxpayer was charged with filing two false income tax returns and in lieu of prosecution, the prosecutor accepted full restitution of \$723 and repayment of the fraudulently acquired state income tax refunds.
- Nine felony counts were filed against a taxpayer for failure to pay sales tax. The prosecutor dismissed these charges after restitution of \$6,962 was made to the Department.

## FEBRUARY

- Taxpayer pled guilty to the felony charge of failure to file sales tax returns. Taxpayer received five years of supervised probation and was ordered to pay restitution of \$74,416.57.
- Taxpayer pled guilty to making retail sales without a license, was fined \$500 and placed on two years of court supervised probation.
- Taxpayer pled guilty to felony charges of failure to file and pay sales tax. The individual was placed on two years of probation and was ordered to make restitution of \$4,711.82 to the Department.

## MARCH

- Taxpayer was charged with making retail sales without a license and pled guilty. The individual received a suspended imposition of sentence and was placed on two years of probation with the condition that past sales tax of \$9,853 be paid.
- The investigation involved husband and wife owners of a restaurant. The husband and the wife each pled guilty to two felony counts of failure to pay sales tax and failure to file sales tax returns. He was sentenced to five years of probation with a suspended execution of sentence. He will serve 30 days shock detention in the county jail and perform 400 hours of community service. The wife received a suspended imposition of sentence and five years of probation. She will perform 400 hours of community service and serve 60 days discretionary shock detention as established by the Office of Probation and Parole. They were also ordered to pay restitution of \$55,245.

## APRIL

- Taxpayer pled guilty to failure to file sales tax returns and failure to pay sales

taxes due. This individual received a suspended imposition of sentence with two years of supervised probation and was ordered to pay restitution of \$5,539.

- Taxpayer pled guilty to making retail sales without a license. This individual received a suspended imposition of sentence and was placed on two years of unsupervised probation. Restitution of \$2,007 was ordered.

## MAY

- Taxpayer pled guilty to failure to file a sales tax return. The court suspended the imposition of sentence and placed the individual on five years probation. The court ordered restitution to the state in the amount of \$17,742.13 and set up a payment plan.
- A prosecution report was prepared for failure to file and pay sales tax for nine quarterly periods. A civil settlement resulted in the collection of \$9,903.45.

## JUNE

- Taxpayer pled guilty to one count of failure to file a sales tax return and one

*see Successful page 7*

## Field Audit Bureau – Sales and Use Tax Audits

The sales tax statutes were enacted into Missouri law in 1939. In 1959 a compensating use tax was enacted into law to help prevent people from purchasing from out-of-state companies in order to avoid the sales tax. With the exception of some additional sections and a few modifications, the sales and use tax laws look very similar to when they were enacted. Unfortunately, this sometimes presents problems in applying these old statutes to the way companies currently operate. Technologies have changed. Organizational structures have changed with multiple subsidiaries and joint ventures. Terminologies have changed. The sales and use tax laws of today, however, are largely based on the technologies, organizational structures and terminologies at the time they were enacted.

The largest share of our audit efforts and resources are geared towards compliance with the sales and use tax laws. At first blush, it may appear to many people that these taxes are simple to administer. If you sell tangible personal property at retail, you

collect tax. What could be more simple? If a retailer doesn't collect and remit the tax to the state, they are in violation of the law. Simple, straight forward, easy to understand!

Unfortunately the sales and use tax laws are not as simple as they may seem. The sales tax statutes are filled with exemptions and exclusions and taxes on some services. Court decisions arise from disputes over what the statutes (and previous court decisions) mean and the state of the law changes a little with each decision. Each decision is reviewed and the text of every decision is provided to the auditors.

In audit situations our primary focus is to enforce the laws consistently and fairly for all similarly situated taxpayers. Unfortunately the operations of similarly situated taxpayers may not be similar at all. Sales tax is very much based on the fact situation surrounding the purchase and use of property. Similar transactions by competing taxpayers could have different tax consequences based on how the transactions are set up. For example, separate negotiation and billing of

services such as delivery or installation could result in those services not being subject to tax. However, services included as part of the sales price of tangible personal property is going to be subject to sales tax.

The Field Audit Bureau attempts to ensure consistency between audits and between areas by having a series of checks and balances. Centralized, standardized auditor training sessions are held three times a year and there are periodic manager and supervisor meetings. As to the actual audits, all potential audit findings are reviewed by the auditors' supervisors. If questions arise or anything unusual is noted, the supervisors will contact the area manager and/or a staff audit reviewer in Jefferson City. If there are still concerns on the proper tax treatment, an administrator will be contacted. When necessary advice is sought from the General Counsel's office. Each area office also has regular supervisor and audit team meetings where audit issues are discussed.

After an audit has been completed, whether or not it is paid by the taxpayer, the audit is  
*see Use Tax Audit page 6*

# Court Cases

by General Counsel's Office,  
(573) 751-2633

## Sales Tax

**Drury Supply Company, et al. v. Director of Revenue**, 95-000870RV (AHC, 10/8/96).

Several related companies engaged in the business of providing room and board to the public (hotel/motel services). A related company sold the other companies supplies to be used in rendering the services. After an audit, the Director issued assessments for additional taxes on the purchase and sale of tangible personal property used to provide "free" breakfasts, food and beverages for customers using the meeting rooms, guest consumables, guest room supplies and cleaning/laundry supplies. In addition, the companies were assessed sales taxes for failure to collect sales taxes from guests who claimed to be affiliated with exempt entities but who paid for the room out of their own funds and not the funds of the exempt entities and sales taxes on the mark-up charge for telephone services sold to guests.

Drury Supply Company, et al., (Taxpayers) argued that all of the tangible personal property they sold/purchased was factored into the room charges and were excluded from the definition of retail sales as sales for resale. Taxpayers also argued that the exemption certificates originally accepted from the exempt entities were taken in good faith and, therefore, the subsequent sales to persons claiming to be affiliated with the exempt entities were exempt although the charges were paid by the persons and not directly from the funds of the exempt entities. Finally, Taxpayers contended that the telephone charges were not subject to sales taxes because the charges did not fit within the definition of "basic rate" set forth in Section 144.020.1(4), RSMo 1994.

The Director argued that the tangible personal property purchased by the Taxpayers were used and consumed by them in the rendering of the hotel/motel services and, therefore, were not resold. She also argued that although the original exemption certificates from the

exempt entities may have been taken in good faith, there was no proof that the persons purchasing the services were in fact authorized representatives of the exempt entities and that the purchases were being made on their behalf. Finally, the Director argued that Section 144.020.1(4) imposes a tax on all charges for telephone services and that when Taxpayer added a surcharge to the telephone rate, the gross receipts derived from such charges were subject to sales taxes.

The Administrative Hearing Commission (AHC) found that the "sale for resale" exclusion applies to the sale of taxable services and the purchases of the tangible personal property used to provide "free" breakfasts and the guest consumables were not subject to Missouri sales/use taxes. It further found that the guest room supplies were property used and consumed by the hotel/

motels to provide the service to the guests and ownership of the property was not transferred to the guests. Therefore, the purchases of the guest room supplies were subject to sales tax. The AHC found that because the Taxpayers had accepted the exemption certificates from the exempt entities in good faith, the subsequent sales of room services to persons claiming to represent the exempt entities were exempt from sales taxes notwithstanding payment did not come directly from the funds of the exempt entities. Finally, the AHC found that the Taxpayers' markup of the telephone services plus the telephone company's basic charge to the Taxpayers was the "basic rate" referred to in Section 144.020.1(4) for purposes of calculating the sales tax and Taxpayers were liable for the sales tax on their gross receipts from the sale of the telephone services.

## Sales Tax

**Acme Music Company v. Director of Revenue**, Case No. 95-002608RV (AHC 10/25/96).

Acme Music Company (Taxpayer) entered into agreements with various businesses for the placement of amusement devices (i.e., pool tables, video games, pinball machines) in the businesses and for sharing of the gross receipts realized from the businesses' patrons who play the devices. The Taxpayer placed two pool tables, a cigarette machine and a coin-operated jukebox in a tavern. The Taxpayer paid under protest, pursuant to Section 144.700, RSMo 1994, the Missouri sales taxes on its gross receipts from the pool tables and the jukebox. The protest was based on the Taxpayer's contention that a tavern is not a place of amusement under Section 144.020.1(2), RSMo 1994.

The Taxpayer argued that a tavern was not a place of amusement because its principle business was the sale of drinks and snacks and that it did not collect a cover charge for admission to its establishment. It argued that the gross receipts from the amusement devices was a de minimus portion of its business activities. The Director argued that the focus is not on the amount of gross receipts derived from the amusement devices in comparison with the establishment's overall gross receipts, but the nature and character of the business.

The AHC found that the determination of whether a business or establishment is a place of amusement business is not whether the gross receipts derived from any amusement devices in the establishment was de minimus in comparison to its overall gross receipts, but upon the nature and character of the establishment (business activities) and whether amusement activities was de minimus in comparison to the overall nature of the business. It further found that the nature and character of a tavern is the amusement of its patrons and that this nature is unaltered by the failure to charge an admission fee. The denial of the refund was sustained.

## Sales Tax

**Walworth Publishing Company, Inc. v. Director of Revenue**, No. 78769 (Mo. banc 1996).

The Department appealed a decision by the Administrative Hearing Commission (AHC) finding that phototypesetting paper is "equipment." The Walworth Publishing Company, Inc. (Taxpayer), a Missouri corporation engaged in the business of producing yearbooks for schools and other commercial customers, purchased phototypesetting paper. The paper was used in the same manner as photographic film. The paper was used only once to produce a negative.

Upon completion of an audit, Director assessed the Taxpayer sales/use taxes on its purchases of the phototypesetting paper. The AHC reversed the assessment based on its conclusion that the purchases of phototypesetting paper were exempt from the imposition of sales/use taxes under Section 144.030.2(4), RSMo, as "equipment" replaced by reason of design change. The Department appealed.

The Missouri Supreme Court (Court) reversed the AHC's decision. The Court held that "[i]n a business setting, one dictionary definition of 'equipment' clearly applies: all the fixed assets other than land and buildings of a business enterprise. [illustration:] <the plant, equipment, and supplies of the factory>." The Court stated that under this definition, "equipment must have a degree of permanence to the business. Items consumed in one processing are not 'fixed' in any sense." It further stated: "In order to qualify for the Section 144.030.2(4) exemption, equipment must contribute to multiple processing cycles over time." Based on this definition, the Court found that phototypesetting paper is not equipment.

## Income Tax

**First National Bank of Callaway County v. Director of Revenue**, Missouri Supreme Court Case No. 78612, October 22, 1996.

The Missouri Supreme Court affirmed the Administrative Hearing Commission's denial of a credit claimed by the Bank against its bank franchise tax for sales tax paid to a check printer.

First National Bank of Callaway County's (Taxpayer) customers fill out check order forms which the Taxpayer collects and sends to a printer ("Deluxe") in Kansas. Deluxe prints the checks and sends them to the customers. Deluxe submits an itemized invoice to the Taxpayer that includes: (1) the check printing price; (2) the check distribution price; (3) the Taxpayer's commission on the transaction; and (4) sales tax on the total of the first three items, at Callaway County's rate. The Taxpayer pays Deluxe for items one, two and four, after reserving its commission. The Taxpayer recoups the full amount of

items one through four by imposing a service fee, collected by debiting the customers' checking accounts.

Section 148.030.3, RSMo, allows credits against bank franchise tax for sales and use tax paid with respect to a bank's purchases of tangible personal property, but not for taxes collected by a bank on its sales of tangible personal property.

The Supreme Court (Court) characterized the transactions between Deluxe, the Taxpayer and its customers as two sales. The first transaction, between Deluxe and the Taxpayer, is a sale for resale, not subject to sales tax. The second transaction is a sale of checks by the Taxpayer to the customer. The Court determined that the Taxpayer could not take a credit under Section 148.030 for sales tax paid because it owed no sales tax in the first place.

The Court also discussed a single sale approach (a single sale of checks by Deluxe to the customer) and noted that the fact that the Taxpayer earns a com-

## Sales Tax

**C. Alex Bert, et al. v. Director of Revenue**, No. 78914 (Mo. banc 1996).

C. Alex Bert, et al. (Taxpayers) were persons and businesses that purchased utility services under a utility rate classification of nondomestic use. Taxpayers made application for a refund of sales taxes paid on the portion of the utility services they claimed were for domestic use. Section 144.030.2(23), RSMo, provides a mechanism for claiming a refund of sales taxes paid on utilities that were purchased under nondomestic use rate classification but actually used for domestic purposes. This section provides for a one-year statute of limitations. The Taxpayers' refund applications had claimed a right to a refund for a period of three years. It was their contention that the three-year statute of limitations set forth in Section 144.190, RSMo, applied. In their appeal of the Administrative Hearing Commission's (AHC) decision, the Taxpayers argued that if Section 144.190 did not apply, then Section 144.030.2(23) violated the uniformity clause of the Missouri Constitution, Article X, Section 3, and the equal protection clauses of the United States and Missouri Constitutions, Thirteenth Amendment and Article I, Section 2, respectively. The Supreme Court rejected this argument stating that the uniformity and equal protection clauses allow reasonable classifications for tax purposes and that the one-year statute of limitations set forth in Section 144.030.2(23) was "rationally related to a legitimate state interest." The Court affirmed the AHC decision.

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mission on the sales supports the single sale approach, but that such an approach would require the imposition of a use tax, rather than the sales tax that was imposed. The Court concluded that the entire transaction was better characterized as a two-sale structure, but that, either way, the Taxpayer does not owe the tax and, therefore, is not entitled to the tax credit.

Finally, the Court found that the decision was not unexpected.

## Income Tax

**Richard and Maryann Ferris v. Director of Revenue**, Case No. 95-002850RI (AHC, 10/9/96).

Maryann Ferris was a shareholder in a Missouri corporation that agreed to sell its stock to another corporation. Ribaud Distribution, a partnership, was formed on 8/16/93, as a vehicle for distribution of the proceeds of the sale, which occurred on or about 8/16/93. Maryann Ferris received \$436,368 from the sale. Richard and Maryann Ferris (Taxpayers) made three estimated payments of \$150 each. On 4/15/94, Taxpayers filed a 1993 Missouri return reporting zero tax for Richard and \$19,740 in tax for Maryann.

Section 143.761, RSMo, imposes a penalty for failure to pay estimated tax, but also provides exceptions to the penalty. Taxpayers argued that income from Ribaud Distribution was not determinable until the books were closed and the partnership return was prepared, thus, they could not determine 1993 estimated tax. The Administrative Hearing Commission (AHC) found that Section 143.761.4, RSMo, does

not set forth any exception for these circumstances.

The AHC found that because the sale occurred on or about 8/16/93, the estimated tax installments were due in two installments, on 9/15/93 and 1/15/94. It further found that for purposes of determining the underpayment of estimated tax, the "tax shown on the return for the taxable year" was \$19,740, the amount reported on the Taxpayers' original return (not the \$19,358 determined to be the correct tax). The estimated tax was due in two installments of \$8,883 each and because payments did not equal that amount, Maryann Ferris underpaid estimated tax.

The AHC found that no exception to the penalty applies and that under the reasonableness standard in *Hiatt v. Director of Revenue*, Maryann Ferris was liable for the penalty because even if the amount of distribution from the sale was not known when the estimated payments were due, payments of \$450—when the tax shown on the return was \$19,740 on a distribution of \$436,368—were unreasonable.

## Use Tax Audit

*from page 3*

reviewed by a supervisor and area manager before being forwarded to a staff audit reviewer in Jefferson City. The Staff Audit Reviewers review all audits from all areas to ensure consistent treatment between areas. They review the audits for proper application of the law as well as making sure the audits can be processed into DOR's computer system. Any unusual issues or items in the audits are discussed in daily staff meetings. All audit findings to be assessed are discussed in these meetings before any assessments are sent to the taxpayers.

After audits are assessed, taxpayers have 60 days to appeal to the Administrative Hearing Commission. Instructions on appealing the assessments are included with the assessment notices. Taxpayers may also request an informal review of the audit findings during this appeal period. If a taxpayer requests an informal review, an audit representative other than the auditor who completed the audit, will meet with the taxpayer to discuss the findings and make adjustments if necessary. It should be noted that a request for an informal review does not extend the 60 day appeal period.

Contrary to what people may think, the vast majority of audit findings for sales and use taxes are not from sellers who fail to collect enough tax but rather from purchasers claiming invalid exemptions or failing to accrue use tax on out-of-state purchases. For sales tax, purchasers may claim exemptions that are improper under the law or use items for purposes other than were claimed at time of purchase. For use tax, purchasers are also liable for the tax if the vendors do not collect the tax. Purchasers often overlook their use tax obligations when making purchases from out-of-state vendors.

The Field Audit Bureau strives to treat taxpayers fairly. Our training programs and review procedures are aimed at making our audits effective, consistent and not overly intrusive. A recent survey of multistate companies by a leading tax publication found Missouri as a leader in audit coverage. The same survey found that Missouri was not among the states whose auditors were considered difficult with which to work. If during an audit you have concerns about an auditor or issues in an audit, please do not hesitate to ask to talk to the auditor's supervisor.

## Sales Tax

**Eagle Promotional Services, Inc. v. Director of Revenue**, Case No. 96-001387RV (AHC, 11/21/96).

The Eagle Promotional Services, Inc (Taxpayer) filed a complaint challenging the Director's final decision denying its sales tax refund. The Director filed a Motion for Summary Determination asserting that the Taxpayer was bound by a settlement in bankruptcy court as to the tax amounts in question. In a prior bankruptcy proceeding, the Taxpayer had reached a settlement with the Department regarding the amount of the Department's claim. The bankruptcy court then entered a final order confirming the Taxpayer's reorganization plan. Subsequently, the taxpayer filed an "Application for Redetermination of Amounts due Missouri Department of Revenue" under the confirmation order of reorganization. The bankruptcy court issued an order denying the Taxpayer's application for redetermination on grounds that the

Taxpayer was bound by the settlement agreement and failed to appeal the settlement order and confirmation order previously entered by the bankruptcy court.

The Administrative Hearing Commission (AHC) found that the Taxpayer's refund claim contained almost exactly the same language as its application for redetermination of the Department's claim which the bankruptcy court had denied. The AHC found that precisely the same theories presented in the Taxpayer's refund claim had been presented to the bankruptcy court and that the Taxpayer and the Director were parties in the prior proceeding and the Taxpayer had a full and fair opportunity to litigate the issues in the prior proceeding. The AHC concluded that the Taxpayer was bound by the bankruptcy court's judgment because it was collaterally estopped from relitigating the same issue. For this reason, the AHC granted the Director's Motion for Summary Determination.



## Successful

from page 3

count of failure to remit sales tax. The taxpayer was sentenced to three years in prison on each charge to run concurrently. A suspended execution of sentence was ordered and the taxpayer was placed on five years probation. Taxpayer was also ordered to pay restitution of \$10,576.33 and serve 40 hours of community service.

- The prosecuting attorney's office filed seven counts of failure to file a sales tax return. After the taxpayer made full restitution of \$16,040, charges were dismissed.

- Taxpayer pled guilty to making a false declaration with the purpose to mislead the Director in the performance of her duty by submitting a false written statement—a false name and social security number on a 1993 Missouri individual income tax return. The individual was ordered to pay a fine of \$250.

- The prosecuting attorney's office filed four counts of failure to file sales tax returns. After restitution of \$1,401.87 was made, the charges were dismissed.

### JULY

- The prosecuting attorney's office collected the total withholding tax liability of \$1,791 in lieu of prosecution.

### AUGUST

- Taxpayer pled guilty to failure to file and pay sales taxes. The court suspended the imposition of sentence and placed the taxpayer on supervised probation for four years. Restitution of \$4,863.19 was ordered.

- Taxpayer pled guilty to making retail sales without a license. The individual received a suspended imposition of sentence, was placed on probation for two years and was ordered to pay restitution of \$9,398.14. A cashier's check for \$5,206.13 was received and the balance of \$4,192.01 will be paid in monthly payments.

### SEPTEMBER

- Charges were filed against an individual for failure to file and pay withholding taxes and failure to file and pay sales taxes. A year after the charges were filed, a deferred prosecution agreement was signed. According to the agreement, the subject will make restitution of \$12,000 to the Department of Revenue.

- Taxpayer pled guilty to failure to pay withholding tax and received a suspended imposition of sentence. The individual was

placed on probation for five years and was ordered to pay restitution of \$15,980.68 in monthly payments.

- Charges for failure to file a sales tax return and failure to pay sales taxes were filed against the subject. The prosecutor agreed to dismiss the charges because he paid the full amount of \$1,392.75 in restitution.

- Taxpayer pled guilty to making retail sales without a valid retail sales license. A suspended imposition of sentence was issued by the court. The subject was placed on two years of probation and was ordered to pay restitution of \$482.77 for the sales tax liability in that county.

### OCTOBER

- A prosecution report was prepared and presented to the prosecuting attorney for failure to file sales tax returns and for failure to pay sales taxes due. In lieu of prosecution, the prosecuting attorney accepted full restitution of \$2,660.10.

- Taxpayer pled guilty to one felony count of failure to file and pay sales taxes due and received a suspended imposition of sentence. The individual was placed on probation for five years and was ordered to pay restitution of \$18,957.63.

- Taxpayer pled guilty to one misdemeanor count of failure to file sales tax returns and was sentenced to 90 days in the county jail, with a suspended execution of sentence. Taxpayer was placed on two years of unsupervised probation and was ordered to pay restitution of \$4,610.78.

- Taxpayer pled guilty to filing a false Missouri individual income tax return. A suspended imposition of sentence was issued by the court and the subject was placed on two years of probation.

### NOVEMBER

- Taxpayer pled guilty to filing a false sales tax return and failure to file an income tax return. Taxpayer received a suspended imposition of sentence and was placed on three years of supervised probation. Taxpayer was ordered to perform 288 hours of free work for public or charitable purpose(s), at the rate of not less than eight hours each month until the full requirement is satisfied. In addition, the individual was ordered to make restitution in the amount of \$17,000.

- Taxpayer pled guilty to two counts of failure to file and failure to pay sales tax. The court suspended the imposition of sentence and placed the individual on five years of supervised probation. The

\$153,253 court ordered restitution included \$131,680 in sales tax and \$21,573 in withholding tax.

- After seven counts of failure to file a sales tax return were filed, the court amended the charges to one Class A misdemeanor. The individual pled guilty and received a suspended imposition of sentence. Restitution of \$9,991.65 was paid.

- Taxpayer pled guilty to one count of failure to furnish a Missouri sales tax return and received a suspended imposition of sentence with two years of unsupervised probation. Restitution of \$13,071.98 was paid prior to the sentencing date.

- A prosecution report was prepared and the local prosecutor filed charges for failure to pay sales taxes due. The individual entered into a deferred prosecution agreement to pay the total tax liability of \$7,727.79 within four years.

- Taxpayer pled guilty to filing a false Missouri income tax return. The court sentenced the subject to a term of two years with the Department of Corrections. Probation was denied.

### DECEMBER

- Taxpayer pled guilty to one misdemeanor count of making retail sales without a license. The court issued a suspended imposition of sentence and taxpayer was placed on supervised probation for one year. The individual was ordered to obtain a valid retail sales license within 90 days and remain current on paying his sales taxes due.

- Taxpayer pled guilty to the misdemeanor charge of making retail sales without a license. Taxpayer was sentenced to one year in jail with a suspended execution of sentence and was placed on unsupervised probation for two years. The court ordered that restitution of \$15,368.90 be paid and that the individual serve 14 days of shock time at the discretion of the prosecuting attorney.

- A joint income tax investigation was conducted with the Internal Revenue Service when information received from the Department indicated that several inconsistent and fictitious state income tax returns were filed. Taxpayer confessed and pled guilty to filing fraudulent returns in the federal system. There were no state tax returns processed. The individual was placed on three years probation and was ordered to pay restitution.

# Tax Calendar

## Due Dates for February – June 1997

### February

- 5 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 13 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 18 Quarter-Monthly Withholding  
Reconciliation  
Monthly Withholding Return  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Report  
Other Tobacco Products Annual License  
Renewals
- 20 Monthly Sales/Use Tax Return  
Cigarette Tax Cash Accounts Return  
Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 26 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 29 Motor/Special Fuel Report

### March

- 3 MO-1040 for Farmers to Achieve  
Underpayment Status  
Quarterly Insurance Tax Payment
- 5 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 12 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 17 Quarter-Monthly Withholding  
Reconciliation  
Monthly Withholding Return  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Report
- 19 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 20 Monthly Sales/Use Tax Return  
Cigarette Tax Cash Accounts Return
- 26 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 31 Motor/Special Fuel Report

### April

- 3 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 10 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 15 Estimated Tax Declarations  
for Individuals  
Estimated Tax Declarations for Calendar  
Year Corporations  
Form MO-1120 for Calendar Year  
Foreign Corporations  
Forms MO-1040, MO-1040A, MO-PTC  
MO-1041, MO-1065, MO-1120  
and MO-1120S  
Form MO-60 – Extension Request  
Cigarette Tax Credit Account and Return  
Financial Institutions Tax Return  
Other Tobacco Products Monthly Report
- 18 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 22 Cigarette Tax Cash Accounts Return
- 25 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 30 Monthly Sales/Use Tax Return  
Quarterly Sales/Use Tax Return  
Quarter-Monthly Withholding  
Reconciliation  
Quarterly Withholding Return  
Monthly Withholding Return  
Motor/Special Fuel Report  
Tire Fee  
Quarterly Insurance Tax Payment  
Quarterly Interstate Fuel Tax User  
Report

### May

- 5 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 12 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment

- 15 Quarter-Monthly Withholding  
Reconciliation  
Monthly Withholding Return  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Report  
Form MO-1120/MO-60 for Calendar  
Year Trusts (Federal Form 990T)
- 20 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment  
Monthly Sales/Use Tax Return  
Cigarette Tax Cash Accounts Return
- 28 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment

### June

- 2 Quarterly Insurance Tax Payments  
Motor/Special Fuel Report
- 4 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 11 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 16 Estimated Tax Declarations  
for Individuals  
Estimated tax Declarations for Calendar  
Year Corporations  
Quarter-Monthly Withholding  
Reconciliation  
Monthly Withholding Return  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Report
- 18 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 20 Monthly Sales/Use Tax Return  
Cigarette Tax Cash Account
- 25 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 30 Motor/Special Fuel Report

### Tax Bulletin

**Missouri Department of Revenue**

**P.O. Box 629**

**Jefferson City, MO 65105-0629**

#### **BULK RATE**

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